

Remarks

Claims 9-12, 21-30, 32-77, and 79 are pending in this application. Claims 9, 11, 21, 23, 25, 27, 28, 30, 33, 41, 43, 45, 53, 55-57, 65, 67, 68, 70, and 79 have been amended. Support for the claim amendments can be found throughout the application. Therefore, no new matter has been added. Importantly, the claim amendments should not be construed to be an acquiescence to any of the claim rejections. Rather, the amendments to the claims are being made solely to expedite the prosecution of the above-identified application. The Applicants expressly reserve the right to further prosecute the same or similar claims in subsequent patent applications claiming the benefit of priority to the instant application. 35 USC § 120.

Claim Rejections Based on 35 USC § 112¶2

Claims 9-10, 12, 21, 41, 53, and 65 were rejected under 35 USC § 112¶2, based on the Examiner's contention that "substituent R is not depicted on structural formula (3)" and "it is not entirely clear if applicants intend to have substituents R₅ and R₆ substituted on the binaphthyl core, or have the substituents optionally substituted." The Applicants respectfully traverse.

Regarding variable "R," the Applicants respectfully remind the Examiner that "R" appears in the definitions of X and Y in independent claims 9, 21, 41, 53, and 65. Specifically, there are two "R" groups attached to the nitrogen atom of the amino group and two "R" groups attached to the phosphorous atom of the phosphine group. Nevertheless, the Applicants have amended claims 9, 11, 21, 41, 43, 53, 55, 65, and 67 to insert parentheses around "R" to insure absolutely there is no confusion between variable "R₂" and "R." In addition, variable R of compound RC(O)C(R')(R'')Ar in claim 65 was replaced with R''' to eliminate any potential confusion due to the aforementioned fact that variable R also appears in the definition of X and Y. Importantly, the claim amendments represent a mere change in form; and, therefore, they do not affect the scope of the amended claims.

Regarding substituents R₅ and R₆, the Applicants respectfully point out that claims 9, 21, 41, 53, and 65 explicitly state “the B and B’ rings of the binaphthyl core independently may be unsubstituted or substituted with R₅ and R₆, respectively.” The Applicants respectfully contend that this limitation unambiguously establishes that B and B’ are optionally substituted with R₅ and R₆, respectively. Furthermore, the Applicants contend that the aforementioned claim limitation clearly conveys the scope of the claim to one of ordinary skill in the art, and thus it satisfies the requirements of 35 USC § 112¶2.

In addition, variable X of ArX in claims 21, 23, 25, 27, 28, 30, 33, 41, 43, 45, 53, 55-57, 65, 67, 68, 70, and 79 has been replaced with X’ in order to avoid any confusion with variable X attached to the binaphthyl core of formula 3. Likewise, variable R of Ar-R in claim 53 was replaced with R’’ in order to avoid any confusion due to the fact that variable R also appears in the definition of X and Y. Importantly, the claim amendments represent a mere change in form; and, therefore, they do not affect the scope of the amended claims.

Accordingly, the Applicants respectfully request the withdrawal of the rejection of claims 9-10, 12, 21, 41, 53, and 65 under 35 USC § 112¶2.

Allowable Subject Matter

The Applicants gratefully acknowledge the Examiner’s indication that claims 11, 22-30, 32-40, 42-46, 50-52, 54-64, 66-77, and 79 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, the Applicants respectfully maintain that the amendments and arguments presented herein overcome all pending claim rejections in the application.

Fees

The Applicants believe there are no fees required in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any required fee to our Deposit Account, 06-1448.

Conclusion

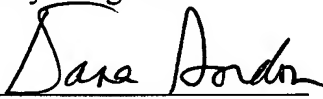
In view of the above amendments, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

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